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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 21.12.2006.

Mandir Singh .... Petitioner

vs

Gurdev Singh .....Respondent.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Surinder Garg,Advocate,for the petitioner.

Kiran Anand Lall, J.

Both courts having declined the relief of interim injunction to the petitioner, during the pendency of his suit for permanent injunction, he has come up, in revision, to this court.

The relief sought for by the petitioner is that the respondent should not interfere with his use of the tubewell in question, for irrigating his land bearing khasra no.1578. The land comprised in this khasra number was purchased by him vide sale-deed dated 23.5.2005, from its previous owner Ganta Singh, father of the respondent. According to the respondent, the tubewell is in his (of respondent) land, bearing khasra no.1577, and the petitioner has no right to use it, for any purpose. He further pleaded that he became owner of khasra no.1577 on 8.1.2003 when he got it in exchange from Ganta Singh. It was thereafter that he installed the tubewell in this khasra number with his own expenses, and he did so much prior to the purchase of khasra no.1578 by the petitioner.

On the basis of documents available on file, both courts have found that Ganta Singh had no connection with khasra no.1577 in which the tubewell is installed, when he sold khasra no.1578 to the petitioner, and as

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such, he could not have sold any right therein to the petitioner, for irrigation of his land, comprised in khasra no.1578. It may also be mentioned that in the revenue record also, it is no where mentioned that the mode of irrigation of khasra no.1578 is the tubewell installed in khasra no.1577, or, for the matter of that, any other tubewell. Instead, in the khasra girdawari for the year 2005, the entry, as referred to in the trial court order dated 15.6.2006, is, not only that the kind of land comprised in khasra no.1578 is “nehri” but also that the mode of irrigation of this khasra number is canal-water.

There being no document to indicate that the land of the petitioner bearing khasra no.1578 is being irrigated by the tubewell of the respondent installed in khasra no.1577, the trial court and the appellant court rightly found that there is no prima-facie case in favour of the petitioner.

No merit.

Dismissed.

21.12.2006. (Kiran Anand Lall)
vs. Judge.